



Community Development
39550 Liberty Street
Fremont, CA 94538

ZONING ADMINISTRATOR



General Order of Business

1. Preliminary (Call to Order – 2:00 p.m.)
2. Public Hearing Items
3. Adjournment

Addressing the Zoning Administrator

Any member of the public may speak on any item under review by the Zoning Administrator after “being recognized” by the Zoning Administrator. After the Zoning Administrator recognizes you, state your name and address. Generally, after the item is introduced, the order of presentation begins with staff introduction and presentation. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Zoning Administrator for discussion and action.

General Information

The Zoning Administrator usually holds hearings on the first and third Mondays of each month, except September (9/15 only). Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Division (510) 494-4440.

Plans and other supporting documents are available at the Development Services Center at 39550 Liberty Street (between Stevenson Boulevard and Walnut Avenue). Plans and other supporting documents may be viewed any day until noon the day of the meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8:00 a.m. to 4:00 p.m., Mondays through Thursdays; and 8:00 a.m. to 12:00 p.m., Fridays.

We appreciate your interest in the conduct of your City’s business. Information about the City or the items discussed in this report may be referred to:

Zoning Administrator
City of Fremont
Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

City Staff
Barbara Meerjans, Zoning Administrator

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AGENDA
ZONING ADMINISTRATOR PUBLIC HEARING MEETING 2:00 P.M.
CITY OF FREMONT, CALIFORNIA
39550 LIBERTY STREET
RANCH HIGUERA CONFERENCE ROOM

January 5, 2009

1. PRELIMINARY

1.1 CALL TO ORDER

2. CONSENT CALENDAR

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

3. PUBLIC HEARING ITEMS

Item 1. LU RESIDENCE FENCE – 1024 KENSINGTON DRIVE – (PLN2009-00096) – to consider a Zoning Administrator Permit to allow a six-foot high fence on the street-side yard corner lot where a four-foot high fence is allowed in the Mission San Jose Planning Area. This project is categorically exempt from CEQA under Section 15303, New Construction.

Project Planner – Susan Summerford, (510) 494-4543, ssummerford@fremont.gov

Recommended Action: Approve based on findings and subject to conditions.

4. ADJOURNMENT

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ZONING ADMINISTRATOR PERMIT

STAFF REPORT JANUARY 5, 2009

Project: LU RESIDENTIAL FENCE – (PLN2009-00096)

Proposal: To legalize existing fence located on the property line.

Recommendation: Approve, based on findings and subject to conditions.

Location: 1024 Kensington Drive in the Mission San Jose planning area.
APN 525023105600
(See aerial photo next page)

Area: 80 foot linear fence on a 0.27-acre lot

People: Melissa Lu, Applicant and Owner
Susan H. Summerford, Staff Planner (510) 494-4543;
ssummerford@fremont.gov

Environmental Review: Categorically exempt per CEQA Section 15303, New Construction of Small Structures

General Plan: Residential Low 4-6 Dwelling units per acre

Zoning: R-1-8 (P-2009-72)

EXECUTIVE SUMMARY:

The applicant is requesting to legalize a fence that was present when they purchased the house this summer, and to which they added in order to enclose the existing trees located just beyond the property line along the Chiltern frontage. The fence is on the property line, and therefore non-conforming. Fences along a side street frontage are required to be setback from the property line and public right-of-way by at least five feet. Staff recommends the applicant avail themselves of the allowance mentioned in the Fremont Municipal Code (hereinafter "FMC"), Section 8-22211, which entitles the applicant to have the fence remain for up to eight years; at which time the fence must either be removed or brought into compliance with the Code.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Low Density Residential; Hopkins Jr. High School
 South: Low Density Residential
 East: Low Density Residential; Chadbourne Elementary School
 West: Low Density Residential

BACKGROUND AND PREVIOUS ACTIONS:

The applicant was cited for a Code violation for constructing a fence in the required side yard setback.

PROJECT DESCRIPTION:

The applicant is requesting to legalize an existing fence located on the property line that does not meet required side yard setbacks. Section 8-22211 of the FMC allows a non-conforming fence to remain for up to eight years provided that required findings are met. See Zoning analysis below for findings.

PROJECT ANALYSIS:

Zoning Regulations:

As set forth in Section 8-22211 of the FMC, limited term exceptions to height limitations for residential properties are allowed in the existing R-1-8 zone and residential districts in general, subject to a Zoning Administrator Permit and in conformance with the applicable provisions included therein.

Required findings for approval of this type of permit application are:

- 1) The fence or hedge will not create a safety hazard to pedestrians or vehicular traffic;
- 2) The fence or hedge is not located within the public right-of-way; and
- 3) The fence or hedge does not exceed the height requirement within the triangular sight area as defined in subsection (c) of section 8-22209.

Zoning Analysis:

The proposed fence does not create a hazard for pedestrian traffic, as there is ample room on the sidewalk for a safe pedestrian path of travel. There is no impact to vehicular traffic, as the fence is located on a side street and encloses a residence.

The fence is located on the side street property line next to the four foot wide sidewalk, four and a half foot wide planting strip and the public street, Chiltern Drive. Review of the original street improvement plans reveal that the public right-of-way is most likely located just beyond the identified property line, but due to the presence of three mature trees located approximately where the public right-of-way line exists, there appears to be biological constraints present on site that prevent the fence being appropriately sited. Staff believes that given the presence of the trees, and the nature of the request being a temporary (limit eight years) approval, this exception is acceptable.

The fence does not encroach into the required triangular site area. This is illustrated on the site plan, Exhibit "A".

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 39 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on December 22, 2008. A Public Hearing Notice was published by *The Tri-City Voice* on December 23, 2008.

ENCLOSURES:

Exhibits:

- Exhibit "A" Site plan
- Exhibit "B" Finding and Conditions

Informational Items:

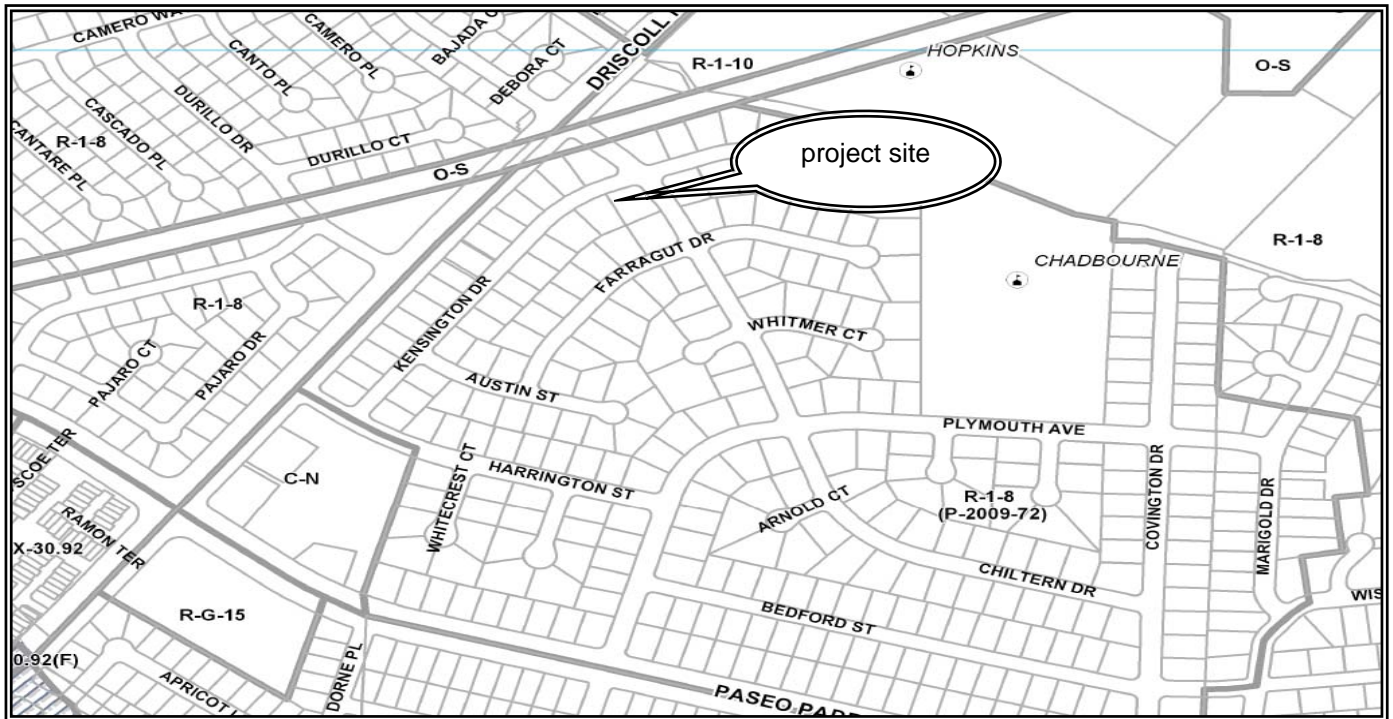
1. Photos of the site

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Guideline 15303, New Construction of Small Structures.
3. Find that the Lu Fence is in conformance with the relevant provisions contained in the City's existing Zoning Code. These provisions include the findings and requirements set forth in the FMC's Section 8-22211 as enumerated within the staff report.
4. Approve the Lu Fence, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning

Callout represents the Project Site



Existing General Plan

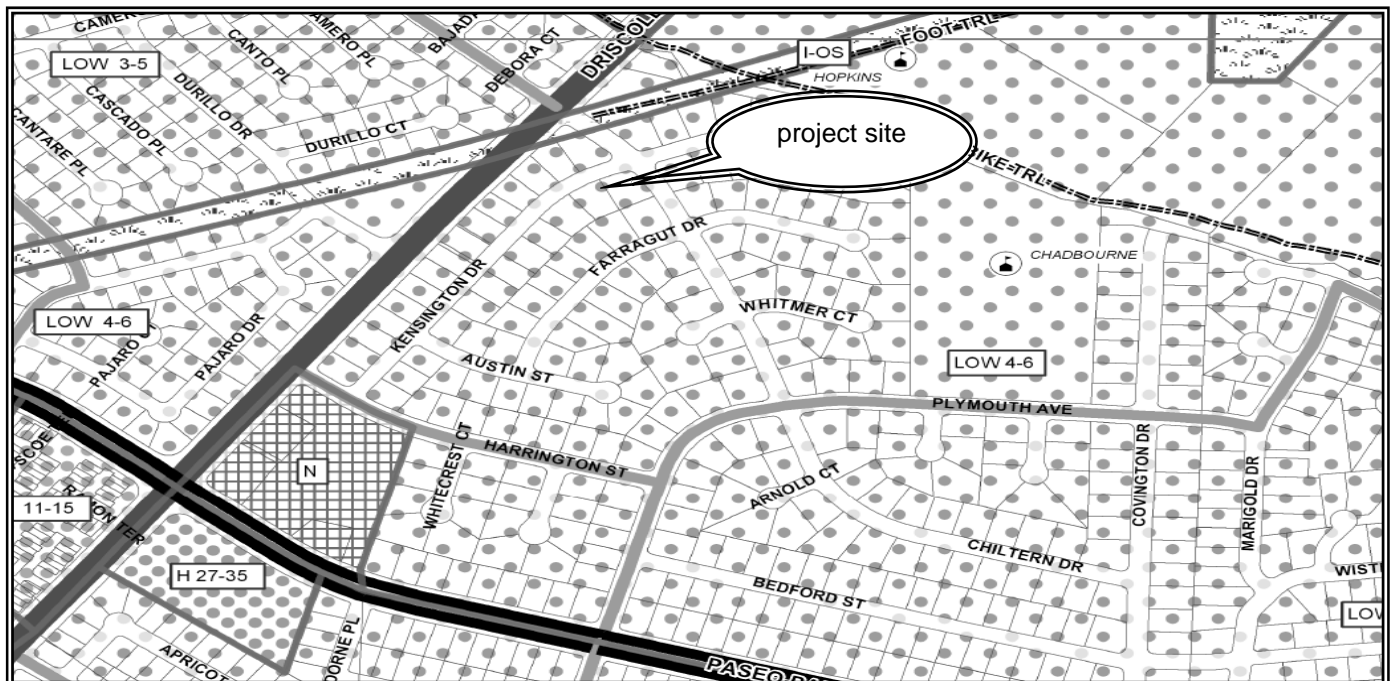


EXHIBIT “B”
Findings and Conditions of Approval
For PLN2009-00096, Lu Fence
1024 Kensington Drive

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated January 5, 2009, incorporated hereby.

Zoning Administrator Permit Findings:

- a. The site is suitable and adequate for the proposed use because it is a fence for a single family home;
- b. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because it is not encroaching on path of travel or affect line of site for vehicular traffic;
- c. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the neighborhood has many such fences;
- d. The proposed design is compatible with adjacent uses within the district and the surroundings of the proposal because the fence is well-constructed and attractive.

CONDITIONS OF APPROVAL:

1. The zoning administrator permit for the non-compliant fence shall expire eight years from the date of issuance unless any of the following conditions occur first, in which case the fence must be brought into compliance with the provisions of the R-1-8 district within thirty days:
 - The fence is found by the zoning administrator as irreparable and/or dilapidated;
 - At the time of additions or modifications to existing structures or the construction of new structures located on the property occurs within valuations exceeding fifty thousand dollars cumulative over a consecutive twenty-four month period; or
 - A transfer or sale of the property to a new owner occurs.
2. Prior to the approval of a zoning administrator permit for a noncomplying fence, the property owner shall record a notice of noncompliance with the Alameda County Recorder’s Office.
3. The permit shall be subject to revocation or modification by the zoning administrator or city council if the conditions of approval have not been fulfilled, or if the approval of the fence has resulted in a substantial adverse effect on the public health or general welfare.